

REMARKS

Claims 1-20 are pending. All claims 1-20 are believed to be allowable over the references cited by the Examiner as discussed below. Accordingly, a Notice of Allowance for the present application is respectfully requested.

Rejection of Claims 1, 5, 6, 8, 9, 13, 15, 18, and 19 Under 35 U.S.C. §102(b)

Claims 1, 5, 6, 8, 9, 13, 15, 18, and 19 stand rejected under 35 U.S.C. 102(b) as being anticipated by Scott.

Independent claim 1 generally recites a headset having an audio receiver, a headset body, a microphone, and a flexible voice tube that defines a lumen. The flexible voice tube is bendable into a curvilinear operative shape and position while *preventing kinking and retains the curvilinear operative shape and position* throughout its operative use until further adjustment. The lumen generally extends between an open end of the flexible voice tube to the microphone.

Independent claim 8 similarly recites a voice tube having a *kink-resistant* flexible tubular member, configured to be bendable into a curvilinear operative shape that is generally retained throughout its operative use until further adjustment is made. Independent claim 15 also generally recites a headset having an acoustic transmission means for acoustic transmission via a lumen, the acoustic transmission means being *kink resistant*, adjustable into a curvilinear operative shape, and generally retaining the curvilinear operative shape until further adjustment is made.

As is known, kink resistance is such that the lumen generally retains its cross-sectional shape and size even when bent to a desired shape. (See also Specification, last sentence of paragraph [0023]). Providing a kink resistant voice tube allows the voice tube to be sufficiently manipulated, without kinking, to position the distal end of the voice tube adjacent to the wearer's mouth for wearers having varying ear-to-mouth distances. In actual use, the voice tube may be bent further for a wearer with a shorter ear-to-mouth distance than for a wearer with a longer ear-to-mouth distance. The kink resistant voice tube allows the voice tube to be bent further without resulting in a kink. Thus a kink resistant voice tube allows the wearer with a shorter ear-to-mouth distance to bend the voice tube as necessary without kinking the voice tube. Having a kink in the voice tube would obviously degrade the acoustic transmission between the open end of the voice tube and the microphone via the voice tube.

In contrast, while Scott discloses a *telescoping* voice pick-up tube 16 that includes “*telescoping* portions 16a, 16b allowing tube 16 to be extended or retracted such that the distal end 16c of the pick-up tube may be positioned adjacent to a wearer’s mouth,” (col. 3, lines 11-18). In other words, the voice tube *telescopes* to allow a wearer with a shorter ear-to-mouth distance to position the open end of the voice tube near the mouth by *retracting* the voice tube. Thus, *rather than bending* the voice tube, the wearer with a shorter ear-to-mouth distance *retracts* the voice tube.

Scott actually teaches away from providing kink resistance. Specifically, the fact that Scott provides telescoping portions 16a, 16b to allow the pick-up tube 16 to be extended/retracted so as to position the distal end 16c adjacent the wearer’s mouth clearly suggests that, the tube 16 is *not* kink resistant, is *not* amenable to being sufficiently manipulated so as to position the distal end 16c adjacent to the wearer’s mouth for a wearer with a shorter ear-to-mouth distance, and would *not* retain its curvilinear operative shape and position throughout its operative use until further adjustment, as is generally recited in each of the independent claims 1, 8, and 15, for example.

Furthermore, Scott also does not disclose that the voice tube 16 can retain a curvilinear operative shape and position throughout its operative use until further adjustment. In particular, while Scott discloses that the voice tube 16 includes a flexible portion 16a, Scott does not disclose that the flexible portion 16a would retain its curvilinear shape after it is bent into an operative shape and position.

Thus, not only does Scott make no mention that the pick-up tube be kink resist, as generally recited in each of independent claims 1, 8, and 15, but by providing the extendibility and retractability of the voice tube, Scott clearly suggests that the tube 16 is neither kink resistant nor would it retain its curvilinear shape and position throughout its operative use until further adjustment, as is generally recited in claim 1, for example.

The Examiner contends that preventing formation of kinks in the flexible tube is inherent in Scott. However, Scott only discloses that the voice pick-up tube 16 be made of “a plastic, or another suitable flexible and lightweight material” (col. 3, lines 19-20). The typical basic flexible plastic tubing, such as a common garden hose, is not, without more, kink resistant. Various properties (such as robustness and flexibility) need to be properly balanced so as to provide kink resistance while allowing manipulation of the voice tube and retaining the

curvilinear operative shape and position throughout its operative use, as generally recited in the claims. Scott's rigid portion 16b is provided for the telescoping function, i.e., to allow the rigid portion 16b to extend out of and retract into the telescoping portion 16a.

The Examiner notes that Scott's voice tube includes 16a (flexible portion), 16b (stainless steel or other suitably rigid material), and 16c (distal end). However, while kink resistance may be provided in a variety of ways (such as those described in the Specification at, for example, paragraph [0024]), simply because Scott's voice tube *could* be made to be kink resistant does not mean that Scott discloses or suggests a kink resistant voice tube.

Accordingly, Scott fails to teach or suggest that the flexible voice tube be configured to resist kinks as generally recited in each of independent claims 1, 8, and 15.

Withdrawal of the rejection of independent claims 1, 8, and 15 as well as claims 5, 6, 9, 13, 18, and 19 dependent variously therefrom, under 35 U.S.C. §102(b) is respectfully requested.

Rejection Under 35 U.S.C. §103

Claims 2, 7, 10, 14, 16, and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Scott in view of Pallai.

Claims 3 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Scott in view of Pallai and further in view of Sawada.

Claims 4, 12, and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Scott in view of Wilcox.

However, the addition of the secondary references Pallai, Sawada and/or Wilcox does not make up for the deficiencies of Scott as discussed above. Thus, claims 2-4, 7, 10-12, 14, 16, 17, and 20 are also believed to be allowable for at least similar reasons as those discussed above. Withdrawal of the rejection of claims 2-4, 7, 10-12, 14, 16, 17, and 20 under 35 U.S.C. §103(a) is respectfully requested.

CONCLUSION

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

In the unlikely event that the transmittal letter accompanying this document is separated from this document and the Patent Office determines that an Extension of Time under 37 CFR 1.136 and/or any other relief is required, Applicant hereby petitions for any required relief including Extensions of Time and/or any other relief and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 50-2315 (Order No. 01-7119).

Respectfully submitted,



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